

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated November 25, 2003. Applicant, through his representative, would like to thank Examiner Jean Witz for granting the interview of February 20, 2004. Claims 1-110 have been cancelled in response to this action; the applicant reserves the right to file a divisional application covering the subject matter of these claims. Claims 111-146 have been newly presented in response to this action. No new matter has been presented. Claims 111-146 remain in the case. Reconsideration and further examination of the application is respectfully requested.

In the Examiner's Action, Claims 3, 13, 54, 55, and 58 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite due to an improper Markush group or a lack of antecedent basis. The cancellation of these claims renders these rejections moot.

In the Examiner's Action, Claims 1-8, 12-16, 18-19, 25, 31, 53, 56-63, 67-71, 73-74, 80, and 86 were rejected under 35 U.S.C. 102(b) as being anticipated by RO 113712. The cancellation of these claims renders this rejection moot. Further, the newly presented claims contain antioxidant extracts in addition to a pharmaceutical and Sambucus. These extracts are not disclosed by RO 113712. Therefore, it is believed that newly presented independent claims 111 and 129 are allowable over RO 113712.

In the Examiner's Action, Claims 1-8, 12-16, 18-19, 25, 31, 53, 56-63, 67-71, 73-74, 80, and 86 were rejected under 35 U.S.C. 103(a) as being unpatentable over RO 113712, in combination with Suzuki, JP 10-298088, Nagai, Campos, and Muriel. The cancellation of these claims renders this rejection moot. As discussed with the Examiner at the above-mentioned interview, the subject matter of the newly presented claims is believed to be allowable over the prior art of record. RO 113712 teaches the use of an NSAID and Sambucus in combination, but fails to teach the use of an NSAID, Sambucus, and an antioxidant plant extract. JP 10-298088 shows the combination of an NSAID and Ecinacea, but not the combination of an NSAID and the claimed antioxidant plant extracts. Suzuki teaches a composition of conventional pharmaceuticals, but fails to shows them in combination with plant extracts. Campos and Muriel each teach the combination of an

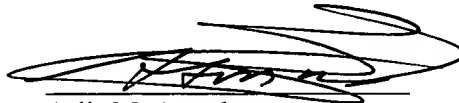
NSAID and silymarin, but they fail to teach the combination of these ingredients with an antioxidant plant extract. Nagai teaches the use of bioflavonoids, but not the use of an antioxidant plant extract in combination with an NSAID.

It is submitted that claims 112-128 and 130-146 are allowable because they further depend from and limit their independent claims, which are allowable over the cited art references based upon the above arguments.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
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